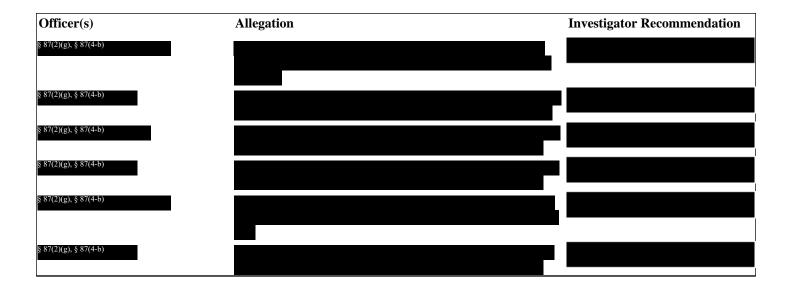
CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	☐ Force	☐ Discourt.	U.S.
Enoch Sowah		Squad #01	201904359	☑ Abuse	e 🔲 O.L.	☐ Injury
Incident Date(s)		Location of Incident:		Precinc	et: 18 Mo. SOL	EO SOL
Saturday, 05/18/2019 2:00 AM		Hinsdale Street and Su	tter Avenue	75	11/18/2020	7/5/2021
Date/Time CV Reported		CV Reported At:	How CV Reported:	Date/T	Time Received at CC	RB
Mon, 05/20/2019 12:19 PM		CCRB	Phone	Mon,	05/20/2019 12:19 PN	M
Complainant/Victim	Type	Home Addre	ess			
Witness(es)		Home Addre	ess			_
Subject Officer(s)	Shield	TaxID	Command			
1. POM Maksim Kolesnyak	25336	958771	PSA 2			
2. POM Peter Voong	12179	956323	PSA 2			
3. POM Godwin Ngai	01239	954175	PSA 2			
4. POM Kevin Padilla	16328	959868	PSA 2			
Officer(s)	Allegatio	n		I	Investigator Recon	nmendation
A.POM Kevin Padilla	Abuse: P	olice Officer Kevin Pad	lilla stopped § 87(2)(b)			
B.POM Kevin Padilla	Abuse: Police Officer Kevin Padilla frisked \$87(2)(6)					
C.POM Kevin Padilla	Abuse: Police Officer Kevin Padilla searched § 87(2)(b)					
D.POM Kevin Padilla	Abuse: Police Officer Kevin Padilla strip-searched § 87(2)(6)					
E.POM Godwin Ngai	Abuse: P	olice Officer Godwin N	gai strip-searched §§	7(2)(b)		
F.POM Kevin Padilla	Abuse: Police Officer Kevin Padilla failed to provide §87(2)(6) with a business card.					
G.POM Godwin Ngai		olice Officer Godwin N th a business card.	gai failed to provide	§ 87(2)(b)		
§ 87(2)(g), § 87(4-b)				L		
§ 87(2)(g), § 87(4-b)						
§ 87(2)(g), § 87(4-b)						
§ 87(2)(g), § 87(4-b)						
§ 87(2)(g), § 87(4-b)						
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CCRB - Confidential

CCRB Case # 201904359

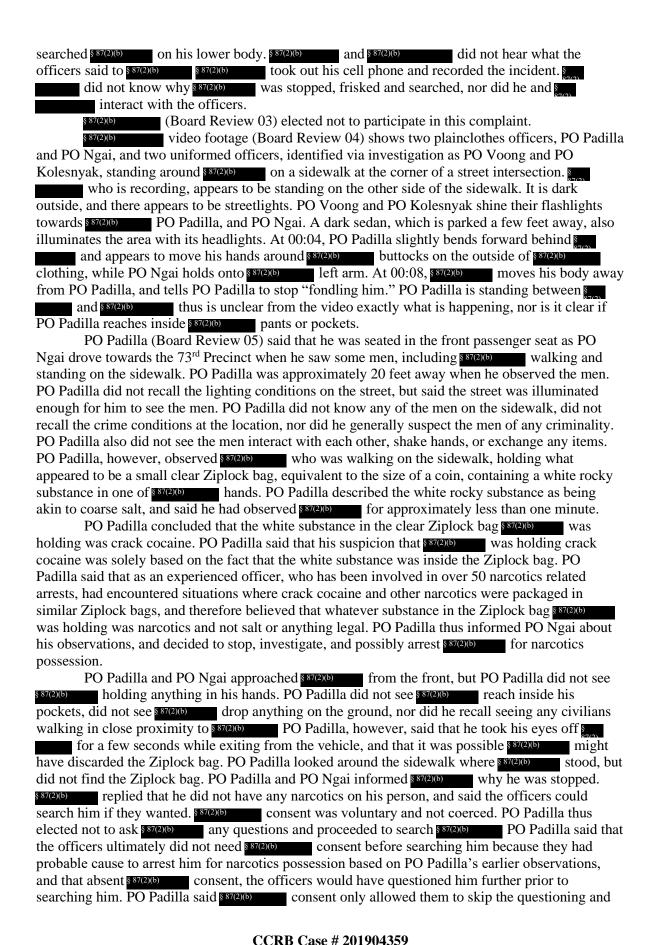
Page 1



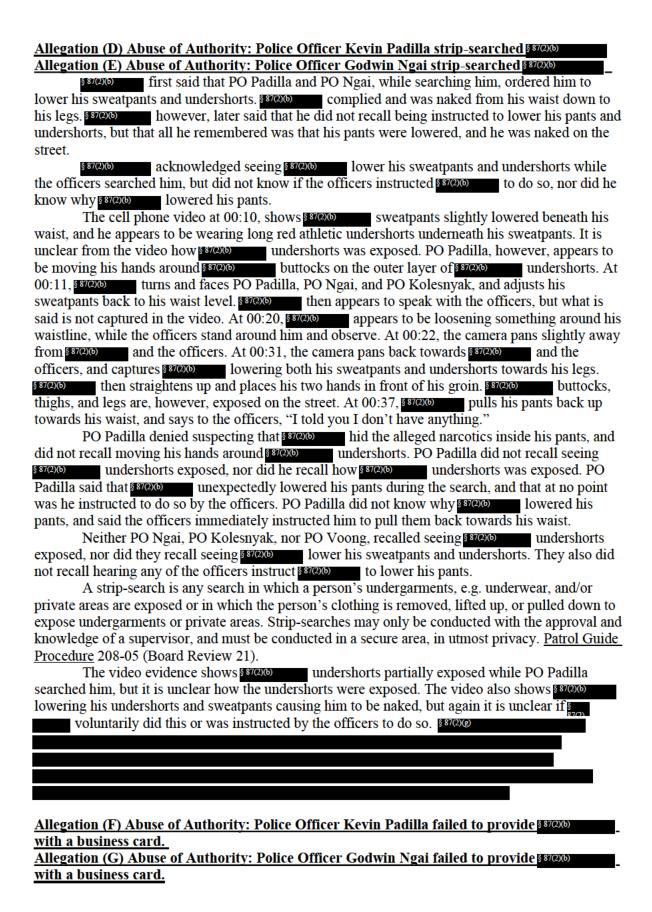
Case Summary

On May 20, 2019, \$87(2)(b) called the CCRB and filed this complaint. On May 18, 2019, at approximately 2 a.m., Police Officers Kevin Padilla and Godwin Ngai from PSA 2 stopped \$87(2)(6) at the corner of Sutter Avenue and Hinsdale Street in Brooklyn (Allegation A: Abuse of Authority, § 87(2)(g) PO Padilla frisked and searched § 87(2)(6) (Allegations B and C: Abuse of Authority, \$87(2)(g) PO Padilla and PO Ngai strippedsearched § 87(2)(b) (Allegations D and E: Abuse of Authority, § 87(2)(g) PO Ngai failed to provide \$\frac{87(2)6}{2} with their business cards (Allegations F and G: Abuse of Authority, § 87(2)(g) No arrests or summonses resulted from this incident. recorded portions of this incident on his cell phone (Board Review 04). There is no BWC footage for this case. Findings and Recommendations Allegation (A) Abuse of Authority: Police Officer Kevin Padilla stopped \$37(2)(5) Allegation (B) Abuse of Authority: Police Officer Kevin Padilla frisked [87(2)(6)] Allegation (C) Abuse of Authority: Police Officer Kevin Padilla searched (S7/2)(5) (Board Review 01) said he went to a bodega, located at the corner of Sutter Avenue and Hinsdale Street in Brooklyn, and bought a bottle of non-alcoholic juice. \$87(2)(6) dressed in grey hoodie and blue sweatpants, and only had his wallet and cell phone in his pockets, which did not create a bulge on his person. §87(2)(b) saw a group of men, some of whom he knew, in front of the bodega, and engaged them in a conversation. § 87(2)(b) identified one of the men as did not shake hands with any of the men, nor did they exchange any items. Approximately three minutes later, \$87(2)(6) and the men saw an unmarked vehicle, which was heading westbound on Sutter Avenue, make a U-turn and head towards their direction. and the men all decided to leave the location because they assumed that the vehicle was a police vehicle. \$87(2)(b) said their assumptions were based on the fact that there were no other vehicles on the street. \$37(2)(b) walked westbound on Sutter Avenue alone, while the other men headed in the opposite direction. The unmarked vehicle reversed towards \$87(2)(b) direction, and pulled up in front of \$87(2)(b) on the curb of the sidewalk. PO Ngai and PO Padilla, identified via investigation, exited the vehicle and immediately grabbed \$87(2)(b) arms. PO Padilla moved his stomach and waistline on the outside of \$87(2)(b) clothing. He then hands around § 87(2)(b) sweatpants and moved his hands around \$87(2)(b) thighs and groin reached inside § 87(2)(b) area. PO Padilla grabbed and squeezed \$37(2)(b) penis and testicles in a manner that \$37(2)(b) felt was inappropriate and sexual in nature (An EDCIR report was prepared in regards, and a referral to the Kings County District Attorney's Office was generated under CCRB complaint # did not recall if PO Padilla or PO Ngai entered any of his pockets, nor did he recall if the officers told him why he was stopped, frisked and searched. [87(2)(6)] denied giving the officers permission to frisk or search him. (Board Review 02) corroborated \$87(2)(b) account, but with the following exceptions. § 87(2)(b) said that he and his cousin, § 87(2)(b) were heading to the train station when they saw \$87(2)(b) walking on the sidewalk. \$87(2)(b) and \$87(2)(b) who have been friends for a long time, shook hands, but did not exchange any items. § 87(2)(b) spoke for approximately two minutes, and left in opposite directions. PO Ngai and PO Padilla approached \$37(2)(6) after he crossed to the other side of the sidewalk, and frisked and

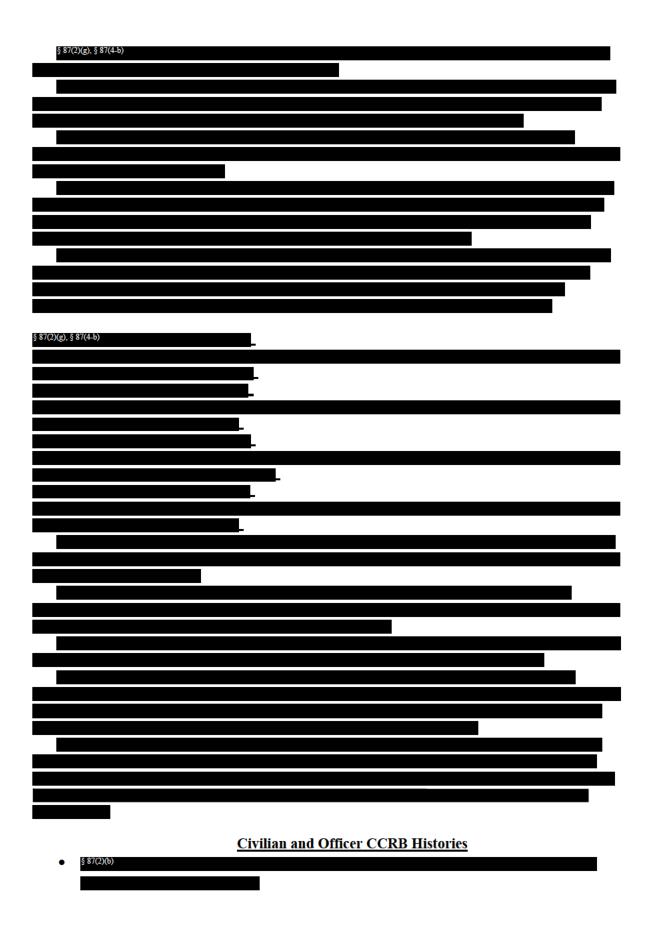
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proceed straight to the search. PO Padilla searched inside sweatpants pockets, and felt waistline, groin and thighs on the outside of strong clothing. PO Padilla did not recall where else on \$87(2)(6) body he searched, but denied reaching inside \$87(2)(6) pants. PO Padilla did not recall if PO Ngai participated in the search, and said the search yielded negative results for any narcotics or contraband. PO Ngai (Board Review 06) had no recollection of this incident even after reviewing the cell phone footage. PO Kolesnyak (Board Review 07) and PO Voong (Board Review 08) both said that they were driving by when they observed PO Padilla and PO Ngai standing with \$87(2)(0) sidewalk. One of the officers flagged down PO Kolesnyak and PO Voong. PO Voong and PO Kolesnyak exited from their vehicle, stood on the sidewalk, and observed PO Padilla pat-down and reach inside § 87(2)(6) pants pockets. PO Voong and PO Kolesnyak did not know why \$87(2)(6) was stopped, frisked, and searched. An officer may stop an individual if the officer has reasonable suspicion that the individual has committed, is committing, or is about to commit a crime. The officer can frisk the individual if the officer reasonably believes that the individual is armed and dangerous. The officer can also arrest and search the individual when the officer has probable cause to believe that the individual has committed a crime. People v. DeBour 40 N.Y.2d 210 (1976) (Board Review 09). Reasonable suspicion is defined as the quantum of knowledge to induce an ordinarily prudent and cautious person under the circumstances believe criminal activity is at hand, and such a stop must be predicated on specific, articulable facts, and not vague or unparticularized hunches. People v. Cantor, 36 N.Y.2d 106 (1975) (Board Review 10). Consent to search must be a free and unconstrained choice. Official coercion, even if deviously subtle, nullifies apparent consent. People v. Gonzalez, 39 N.Y.2d 122 (1976) (Board Review 11). The investigation found that PO Padilla's decision to stop [87(2)0] lacked reasonable suspicion. The video evidence establishes that it was generally dark outside the illumination provided by the flashlights and headlights. It therefore would have been improbable for PO Padilla to have observed such a small sized bag of narcotics in \$87(2)(6) hands from approximately 20 feet away without any direct light source. Additionally, PO Padilla acknowledged that while he and the other men for less than a minute, he made no observations, and there were no additional indicators that caused him to suspect [800] or the men of criminality. Given this, and that the officers did not either see \$87(2)(6) toss or find any narcotics, the investigation does not credit PO Padilla's account that below held a Ziplock bag containing a white substance in his hands, and thus found by a preponderance of the evidence that PO Padilla's decision to stop \$87(2)(6) lacked reasonable suspicion and was unlawful. The video footage also shows (SOC) complaining and moving his body away from PO Padilla during the search while saying that he did not have anything, and therefore suggests that did not give the officers consent to frisk or search him. This conclusion is further bolstered by PO Padilla's admission that the officers would have searched [87(2)(6)] regardless of consent because he believed they had probable cause to arrest solution for possession of narcotics, and because he did not document a consent search § 87(2)(g), § 87(4-b) § 87(2)(g)



It is undisputed that PO Padilla and PO Ngai did not provide \$170,000 with their business	
cards.	
PO Padilla said he was not required to give \$87(2)(0) a business card because the interaction	
with same amounted to a "Level Four" encounter, and that officers were only required to give	7e
their business cards during "Level Three" encounters.	
PO Ngai did not recall why he did not give \$87(2)(6) his business card.	
A business card is to be offered for a law enforcement activity, including stops, frisks, and	
searches of persons, except in cases when a summons is issued, or an arrest is made. NYC	
Administrative Code 14-174 (Board Review 12).	
Given that \$8700 was not arrested or summonsed as a result of this incident, PO Padilla	
and PO Ngai were required to give him their business cards, but failed to do so. \$3700	
and PO Ngai were required to give min their business cards, but raned to do so. \$3000	
§ 87(2)(g), § 87(4-b)	
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§ 87(2)(g), § 87(4-b)	



O	87(2)(b)	

- PO Padilla has been a member-of-service for four years and has been a subject in five CCRB complaints and 10 allegations. Three of these complaints are currently pending investigations, while the remaining two were closed with no substantiations.
- PO Ngai has been a member-of-service for seven years and has been a subject in seven CCRB complaints and 15 allegations, none of which were substantiated.
- PO Kolesnyak has been a member-of-service for four years and this is the first CCRB complaint to which he has been a subject.
- PO Voong has been a member-of-service for six years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

•	This	complaint	was	not	suitable	for	mediation.
•	тшэ	Complaint	was.	по	Sunauic	101	medianon.

§ 87(2)(a)						
[§ 87(2)(b)] [§§	§ 86(1)(3)&(4)] [§ 87(2)(c)]					
Squad No.:						
Investigator: _	Signature	Print Title & Name	Date			
Squad Leader: _	Signature	Print Title & Name	Date			
Reviewer: _	Signature	Print Title & Name	 Date			
	Signature	Time Time of Tumbe	Duit			